

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANDY MOORE,	:
Plaintiff,	:
v.	: Case No. 3:13-cv-8-KRG-KAP
SUPERINTENDENT ROZUM, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on January 28, 2013, docket no. 3, recommending that the complaint be dismissed for failure to state a claim. The plaintiff was notified, pursuant to 28 U.S.C. § 636(b)(1), that he had fourteen days to amend the complaint and to file written to the Report and Recommendation. Plaintiff filed an amended complaint, docket no. 4, that completely fails to allege any facts from which it could be concluded that defendants have acted with deliberate indifference: dissatisfaction with prison medical care is not sufficient to allege a violation of the Eighth Amendment. From the attachments to the amended complaint it is also clear that plaintiff could not have exhausted his administrative remedies before filing suit.

Upon de novo review of the record of this matter, the Report and Recommendation, and the amended complaint, the following order is entered:

AND NOW, this 20th day of February, 2013, it is

ORDERED that the complaint is dismissed for failure to state a claim. No further leave to amend is granted. The motion for injunctive relief contained in the amended complaint is denied. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by U.S. Mail to:

Andy Moore HG-2630
S.C.I. Somerset
1600 Walters Mill Road
Somerset, PA 15510